

37 Am. Jur. 2d Fraud and Deceit § 174

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Fraud and Deceit

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IV. False Representations

G. Representations and Statements as to Particular Matters

3. Value, Cost, and Income of Property

a. Value

§ 174. Exchange transactions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, Fraud  27, 28

As a general rule, representations as to the value of properties involved in exchange transactions are ordinarily considered as mere expressions of opinion, or commendatory trade statements, and as such, do not constitute fraud or the basis thereof.¹ Where the parties to an exchange contract stand upon an equal footing, expressions of opinion as to the value of certain property will not usually be considered so material that misstatements will constitute fraud.² There are, however, circumstances under which representations as to value in exchange transactions are actionable.³ Thus, misrepresentations as to value in exchange transactions are fraudulent where the other party has not equal means of knowing the true value,⁴ where the other party is fraudulently induced to forbear making an examination or inquiry,⁵ or where there is a relation of trust and confidence between the parties.⁶ Also, false representations as to specific extrinsic matters which, if true, materially affect the value of the property which is the subject of an exchange are usually regarded by the courts as representations of fact, on which a charge of fraud may be based.⁷

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Footnotes

1 *Batchelor v. Batchelor*, 502 So. 2d 751 (Ala. 1987).

2 *White v. Oregon Realty Exch. Inv. Co.*, 114 Or. 636, 236 P. 269 (1925).

3 *Burgdorfer v. Thielemann*, 153 Or. 354, 55 P.2d 1122, 104 A.L.R. 1407 (1936); *Gould v. James*, 43 Wyo. 161, 299 P. 275 (1931).

- 4 Vah Dah Dunshee v. Broadway, 119 Cal. App. 678, 7 P.2d 325 (3d Dist. 1932); Burgdorfer v. Thielemann,
153 Or. 354, 55 P.2d 1122, 104 A.L.R. 1407 (1936).
- 5 Burgdorfer v. Thielemann, 153 Or. 354, 55 P.2d 1122, 104 A.L.R. 1407 (1936); Gould v. James, 43 Wyo.
161, 299 P. 275 (1931).
- 6 Vah Dah Dunshee v. Broadway, 119 Cal. App. 678, 7 P.2d 325 (3d Dist. 1932).
- 7 Stumpf v. Lawrence, 4 Cal. App. 2d 373, 40 P.2d 920 (3d Dist. 1935); Pustelnik v. Vilimas, 352 Ill. 270,
185 N.E. 611 (1933).

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